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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,041	08/21/2001	Robert E. Sobol	10003818-1	7800

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EXAMINER

NGUYEN, PHU K

ART UNIT	PAPER NUMBER
2671	

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/934,041

Applicant(s)

SOBOL, ROBERT E.

Examiner

Phu K. Nguyen

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attaches.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 6-9, 14-17, 22-25, 29-32, 34, 35, 43 and 49.Claim(s) rejected: 1-5, 10-13, 18-21, 26-28, 33, 36-42, 44-48, 50 and 51.

Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on 21 August 2001 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Phu K. Nguyen

Applicant's arguments filed on November 16, 2004 have been fully considered but Examiner only partially agrees.

In claim 1, and similar 10, 18, 26, and 47, Applicant argues "the combination of Watanabe and Swanson to reject the present invention is improper hindsight reconstruction of Applicant's invention." Watanabe teaches the modification of object (column 10, lines 4-56), and Swanson teaches that "color is an attribute that is used to modify a given image" (column 17, lines 12-67). Both of Watanabe and Swanson are dealing with the modification of a given image in a window-based environment, and at the time invention was filed (August 2001), it would have been obvious to a person of ordinary skill in the art to modify a displayed object by changing its color attribute because the changing of color attribute, as a long time practice in the art, provides the modified visual appearance of the image in the displayed screen; therefore, it is not a hindsight reconstruction of Applicant's disclosure to modify an image by changing its color attribute.

In claim 33, and similar claim 41, Applicant argues that Examiner fails to provide a sufficient reason or motivation for using the positioning indicators taught by Swanson in lieu of the icons taught by Watanabe to control the setting of a pixel color parameter. Swanson's color setting slide bars shows a setting device, which continuously varies the setting values, to interactively modify the visual appearance of the image on a window environment. Watanabe's graphics system uses the interactive editor to modify the visual appearance of graphic image in the window environment. At the time invention was filed (August 2001), it would have been obvious to a person of ordinary skill in the

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art to modify a displayed object , specifically, changing its color attribute, by using a system of slide bars because it provides the continuous varying of the setting value by sliding along the path; therefore, it is not a hindsight reconstruction of Applicant's disclosure to modify an image by changing its color attribute using the slide bars.

Examiner agrees Applicant's arguments on claims 6-9, 34, 35, 14-17, 43, 22-25, 29-32, and 49.

Claims 6-9, 14-17, 22-25, 29-32, 34, 35, 43, and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu K. Nguyen whose telephone number is (703)305 - 9796. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman can be reached on (703)305-9798. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phu K. Nguyen
December 14, 2004

PHU K. NGUYEN
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